

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-207

April 24, 1998

PUBLIC UTILITIES COMMISSION
Inquiry Into Whether Toll
Rates Reflect Reductions in
Intrastate Access Rates

NOTICE OF INQUIRY

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. SUMMARY

In this Inquiry, we will determine how to assess whether effective competition is present in the intrastate interexchange (toll) market in Maine.

Pursuant to 35-A M.R.S.A. § 7101-B, by May 30, 1999, intrastate access rates will be at or below interstate rates. If the Commission determines that effective competition does not then exist, the legislation authorizes us to require that all intrastate interexchange carriers reduce their intrastate long-distance rates to reflect net reductions in intrastate access rates; effective competition should reduce toll rates in concert with the ordered reductions in access.

We seek comments on the approach that we should take in examining whether competition has effectively passed through the benefits of the access rate reduction.

In addition, we will begin to collect the data that we will need to ensure that decreases in intrastate access rates are passed through to end-use customers and to ensure that carriers adhere to their publicly stated commitments to reflect access rate reductions in their toll rates. For example, MCI Regional Director of Public Policy Robert Lopardo was quoted in a June 6, 1997, MCI press release as saying that "We (MCI) look forward to additional reductions by the PUC and passing those savings on to consumers."

II. BACKGROUND

In 1997, the Legislature enacted P.L. 1997, c. 259, which became effective on September 19, 1997. This legislation, codified as 35-A M.R.S.A. § 7101-B, requires the Public Utilities Commission to: (1) set intrastate access rates at or below interstate levels by May 30, 1999, notwithstanding any other provisions of law; (2) order interexchange carriers to lower intrastate toll rates to reflect reductions in access rates if

the Commission finds that effective competition does not exist in the intrastate long-distance market; and (3) issue a report on access rates to the Joint Standing Committee on Utilities and Energy by January 1, 1998. (The Commission issued this report on December 29, 1997.)

We have begun to implement 35-A M.R.S.A. § 7101-B in three ways. First, we reduced originating access rates by approximately 20 percent effective July 1, 1997. Second, we completed revisions to Chapter 280 of our Rules, which set forth the process for achieving parity with interstate rates by May 30, 1999. Finally, we approved, in a reopened Docket No. 94-123, a Stipulation filed by a group of stakeholders, which allows increases in basic rates totaling \$3.50 by May 30, 1999, and requires that Bell Atlantic reduce its intrastate access rates by 40% of the amount needed to achieve parity by May 30, 1998, and to no more than the level of interstate access rates by May 30, 1999. Public Utilities Commission, Investigation Into Regulatory Alternatives for the New England Telephone and Telegraph Company d/b/a NYNEX, Docket No. 94-123 (reopened), Order at 14 (Mar. 17, 1998).

We now seek to comply with Section (3) of the access parity law by designing the structure through which we will ensure that the intent of the law is met and gathering the data necessary to implement that structure.

III. METHODOLOGY USED TO DETERMINE WHETHER EFFECTIVE COMPETITION IS PRESENT IN MAINE.

The Commission seeks comment on which of the following methodologies we should use to examine whether effective competition exists in the intrastate toll market. In addition, we seek comment on whether another methodology or a modification to one of those listed below may be more effective.

1. The Commission could use the relationship between inter and intrastate toll rates as a proxy for effective competition. Thus, if intrastate toll rates in Maine reach the levels available for interstate calls (measured both by average revenue per minute and specific rates in a few key market segments, such as undiscounted toll for residential customers), it would be reasonable to conclude that there is sufficiently effective competition in Maine's intrastate toll market to meet the requirements of the access parity law.

2. The Commission could examine present access rates and a sampling of toll rates in Maine and track these rates to ensure that the specific decreases in access were matched by decreases in toll. Assuming the pass through of access rate reductions is a necessary element of effective competition, if the access reductions are not passed through, that would be sufficient evidence to conclude that effective competition does not exist in Maine's intrastate toll market.
3. The Commission could begin a broad-based proceeding to explore the structure of the intrastate interexchange market in Maine and the behavior of competitors in that market. While there are criteria and standards that can be applied (e.g., the Herfindahl-Hirschman Index, etc.), determining whether competition is effective in Maine's intrastate toll market may require a comprehensive, protracted and potentially contentious evaluation of the structure of the market and the behavior of firms in that market.

IV. INITIAL DATA REQUEST

All interexchange carriers with more than 5,000 residential subscribers in Maine or 1,000 business subscribers must provide the following information separately for residential and business customers as of July 31 of the years 1996, 1997 as well as 1998 and 1999 when this data becomes available. We seek this data both for intrastate and interstate traffic where applicable, and invite requests for confidentiality.

1. The carrier's highest per-minute rate, the total number and the percentage of the carrier's customers subscribing to that rate, and a description of any required charges other than the per-minute rate.

2. The carrier's lowest per-minute rate, the total number and the percentage of the carrier's customers subscribing to that rate, and a description of any required charges other than the per-minute rate.

3. The carrier's per-minute rate subscribed to by the greatest number of customers, the total number and the percentage of the carrier's customers subscribing to that rate, and a description of any required charges other than the per-minute rate.

4. The carrier's total intrastate toll revenue in Maine and the weighted average toll revenue per-minute for the 12-month period ending as of the report date.

In addition, we seek comment on whether these are the types of data we should seek on a going forward basis and whether there are additional data sets that would help us determine whether effective competition exists.

IV. CONCLUSION

Written responses to the data questions relating to 1996 and 1997 shall be filed with the Administrative Director no later than May 29, 1998. Written responses to the data questions relating to the years 1998 and 1999 shall be filed no later than September 1 of each of those years, respectively.

All other comments relating to this inquiry shall be filed with the Administrative Director no later than May 29, 1998.

Copies of this inquiry shall be distributed to all certificated carriers in Maine as well as the service list of Docket No. 97-319.

Dated at Augusta, Maine this 24th day of April, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.